

Notice of Allowability

Application No.

10/670,043

Examiner

Nathan M. Nutter

Applicant(s)

GAGLIARDI ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 18 June 2007.
2. ☒ The allowed claim(s) is/are 16-18.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance: No prior art has been found nor presented that either teaches or fairly suggests the production of a disposable absorbent article comprising an absorbent core, said core comprises a water absorbent polymeric base material and particles of superabsorbent material, wherein said particles of superabsorbent material have a substantially angle-lacking shape and have an average particle diameter in dry state of from about 0.1 μm to about 500 μm . Nor is there prior art to teach or suggest wherein the article has, in at least one region, a transparency value of at least 50%, and may comprising a topsheet and a backsheet, said absorbent core being positioned between said topsheet and said backsheet, wherein said topsheet, said backsheet and said absorbent core are made of substantially transparent material, as claimed herein. Since there are no other outstanding issues with regard to the clarity or enablement of the claims, these claims are deemed to contain allowable subject matter. All rejections made in the Final rejection are hereby expressly withdrawn. The Specification shows at Pages 29, 30 and 31, the employment of the water absorbent polymeric base materials, as the claims recite. As such, the rejection of the claims under 35 USC 112, first paragraph, is untenable. The reference to Carlucci et al does not provide sufficient teachings to anticipate either the particle size of the superabsorbent or the conjunctive use thereof with a polymeric base material, as recited. As such, the rejection of claims 16-18 under 35 U.S.C. § 102(a) over Carlucci et al. (EP 1 138 293) is untenable. The reference to Soerens et al (US 6,822,135) fails to show the concept of a water absorbent base

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polymer material that is thermoplastic since the binder of the reference is thermoset by crosslinking. Kimura et al (US 5,026,800) cannot cure the deficiencies of the reference since it is relied upon to show a water absorbent resin wherein the shape is angle-lacking. As such, the rejection of claims 16-18 under 35 U.S.C. § 103(a) as being unpatentable over Soerens et al in view of Kimura et al is untenable. The reference to Dutkiewicz et al (US 6,562,742) fails to show the polymeric base material with a superabsorbent particulate, as recited. Kimura et al (US 5,026,800) cannot cure the deficiencies of the reference since it is relied upon to show a water absorbent resin wherein the shape is angle-lacking. As such, the rejection of claims 16-18 under 35 U.S.C. § 103(a) as being unpatentable over Dutkiewicz et al in view of Kimura et al is untenable. Neither Soerens et al nor Dutkiewicz et al teach or suggest the particle sizes as recited.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

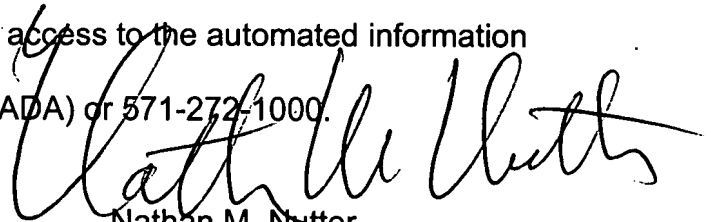
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan M. Nutter whose telephone number is 571-272-1076. The examiner can normally be reached on 9:30 a.m.-6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James J. Seidleck can be reached on 571-272-1078. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Nathan M. Nutter
Primary Examiner
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nmn

10 August 2007